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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,003	01/25/2001	William Girzone	Girzone 2	5206

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Daniel N. Daisak
Chief Patent and Trademark Counsel
TyCom (US) Inc.
Rm 2B-106, 250 Industrial Way West
Eatontown, NJ 07724

EXAMINER

WANG, GEORGE Y

ART UNIT

PAPER NUMBER

2882

DATE MAILED: 07/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,003

Applicant(s)

GIRZONE ET AL.

Examiner

George Y. Wang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to an optical bushing device, classified in class 385, subclass 138.
 - II. Claims 10-20, drawn to a fiber-holding device, classified in class 385, subclass 137.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because an optical fiber bushing device may use a number of other optical accessories that hold a plurality of optical fibers, such as retainers, clamps, and bundle plates. The subcombination has separate utility such as coupling, fiber-holding, and plug termination.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

3. During a telephone conversation with John P. Maldjian on 17 June 2002 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

5. New formal drawings are required in this application because the submitted drawings are informal not adequate for printing. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falkenstein et al. (U.S. Patent No. 4,707,066, from hereinafter "Falkenstein") in view of Tanabe et al. (U.S. Patent No. 5,613,031, from hereinafter "Tanabe").

8. Regarding claims 1-4, 6, and 8-9, Falkenstein discloses an optical fiber device with a housing (fig. 1, ref. G) having a wall (col. 5, lines 39-40), a vacuumed enclosure (fig. 1, ref. K; col. 3, lines 63-65), an optical fiber holding tube (fig. 1, ref. R) extending through the wall and having a first and second end (col. 5, lines 62-68) made metal soldering (col. 4, lines 53-57), a plurality of optical fibers (fig. 1, ref. L), and a gas

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blocking device made of hot melt glue (col. 1, lines 65-67) that creates a seal that prevents water and gas from passing through the fiber holder (col. 3, lines 48-50), which is organized by fiber inserts (fig. 1, ref. W) and holes (col. 4, lines 27-49). The passageway for the fiber is also conical with a wide and narrow portion and tapering middle section, such that the fiber insert is at the wide portion (fig. 1, ref. W). However, Falkenstein fails to specifically disclose the gas being blocked is nitrogen.

Tanabe discloses fiber optic insert structure whose seal or gas blocking device prevents passage of nitrogen (col. 1, lines 19-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a gas blocking device preventing passage of nitrogen since one would be motivated to keep the most abundant gaseous element of our atmosphere from the fiber since optical elements tend to deteriorate in the air and surrounding atmosphere (col. 1, lines 19-20). This not only preserves longevity of the optical fibers but promotes stability and reliability in performance of the fiber and module (col. 1, lines 20-24).

9. As to claims 5 and 7, Falkenstein discloses an optical fiber device as recited above. However, the reference fails to specifically disclose a locking member securing a non-compressible, fiber-organizing insert at one end of the fiber body.

Tanabe teaches an fiber optic insert structure with a locking member or fixing ring (fig. 1, ref. 23). Furthermore, the reference discloses that the insert is made of non-compressible material, such as an Fe-Ni-Co alloy and steel (col. 2, lines 32-34).

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It would have been obvious to one of ordinary skill at the time the invention was made to have utilized a locking member to secure a non-compressible, fiber-organizing insert at one end of the fiber body since one would be motivated by increased hermetic, or air-tight, sealing. Although the reference teaches that it is not necessary or even beneficial to use this type of locking member on a non-compressible insert, Tanabe does disclose that it provides a hermetic sealing that is sufficient and complete (col. 1, lines 59-60).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Y. Wang whose telephone number is 703-305-7242. The examiner can normally be reached on M-F, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 703-305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


ROBERT H. KIM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

gw
June 19, 2002